

## REMARKS

Claims 1, 6, 10-12, 16, 25-27, 32, 36-38, 42, and 77-93 are pending in the application. Claims 1, 27, 86, and 92 are independent. By the foregoing Amendment, claims have been amended and claim 93 has been added. These changes are believed to introduce no new matter and their entry is respectfully requested.

### Rejection of Claims 1, 6, 10-12, 16, 25-27, 32, 36-38, 42, and 77-91 Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected claims 1 and 6 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,910,070 to Mishra et al. ("*Mishra*") in view of U.S. Patent No. 6,671,715 to Langseth et al. ("*Langseth*"). In the Office Action, the Examiner rejected claims 10-12, 16, 25-27, 32, 36-38, 42, and 77-91 under 35 U.S.C. §103(a) as being unpatentable over *Mishra* in view of *Langseth* as applied to claims 1-6 and 11-12 above and in further view of "Official Notice." Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, the Examiner must show that the cited references teach each and every element of the claimed invention. (MPEP §2143.) *citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). A patent composed of several elements is not proven obvious merely by demonstrating that each of its elements was independently known in the prior art. *KSR Int'l C. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007). If a combination or modification to a reference is used, an Examiner must show that there is some expectation of success that the combination or modification proffered would predictably result in the claimed invention. Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the U.S. Supreme Court in *KSR* include the *Graham* factors of determining the scope and content of the prior art, ascertaining the differences between the claimed invention and the prior art, and resolving the level of ordinary skill in the pertinent art.

Once the *Graham* factual inquiries are resolved, the Examiner must explain why the difference(s) between the cited references and the claimed invention would have been obvious to one of ordinary skill in the art. The rationale used must be a permissible rationale. The USPTO promulgated Examination Guidelines for Determining Obviousness in View of *KSR* in the

Federal Register, Vol. 72, No. 195 (October 10, 2007). These *KSR* Guidelines enumerate permissible rationales and the findings of fact that must be made under the particular rationale.

Embodiments of the claimed invention are directed to automatically and transparently initiating a microserver on a client to notify the client of one or more events to which the client has subscribed. Applicants' Specification at page 21, lines 3-8, provides an example embodiment. "In an embodiment, a user subscribes to a message by pointing a web browser to an event. For example, take 'kirksoffice/printer?subscribe = pinteroutofpaper' as a means to subscribe Kirk's web browser to receive notifications that the printer in his office is out of paper. Kirk's web browser waits for a printer to issue an 'out of paper' message. When the printer issues an 'out of paper' message, the message appears on Kirk's web browser." As Applicants' Specification describes, pointing the web browser to an event opens a hypertext transport protocol communication path to the client and maintains it open. When an "out of paper" event occurs, embodiments of the present invention automatically and transparently transmit the event to the client via the still open connection.

According to embodiments of the present invention, the connection is not broken unless there is a failure. In conventional methods such as those described in *Mishra* in view of *Langseth*, connections are made and broken constantly because conventional hypertext transport protocol connections exchange request response pairs and then are closed after the exchange of the pair. Using the methods described in *Mishra* and *Langseth* to retrieve updated information, one would have to "refresh" his connection, exchanging another request response pair to determine if an event occurred. This is because the web browser would have timed out. According to embodiments of the present invention, however, Kirk does not have to "refresh" his connection to determine if an "out of paper" event occurred. Kirk's web browser does not time out. Kirk's connection remains open unless there is a failure.

Moreover, if Kirk's connection were to fail, all of the events that occurred during the time of failed connection are delivered to Kirk when the failed connection is restored. This is not true with conventional methods. With the methods described in *Mishra* and *Langseth*, any information that would have been transmitted during the time between web browser time out and hitting the "refresh" button is lost. If Kirk's connection were to fail, according to embodiments

of the present invention, all of the “out of paper” events that occurred between connection failure and connection restoration are delivered to Kirk when the connection is restored. The same cannot be said for *Mishra* in view of *Langseth*. Applicants respectfully submit therefore that the combination of *Mishra* and *Langseth* do not render claim 1 obvious and claim 1 is thus patentable over *Mishra* in view of *Langseth*.

Claim 6 properly depends from claim 1 and is thus patentable for at least the same reasons that claim 1 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 1 and 6.

Applicants respectfully submit that the Examiner’s taking “Official Notice” that it would have been obvious to include Internet in *Mishra/Langseth*’s system to increase the ***efficiency and reliability*** of the system is in error. Applicants respectfully submit that the Internet is not a reliable network and hypertext transfer protocol is not a reliable protocol. Further, the Internet is not an efficient network and hypertext transfer protocol is not an efficient protocol. Applicants respectfully submit that the Internet and hypertext transfer protocol both today and at the time of Applicants’ invention requires a lot of redundancy, retries, and other techniques to make a user “perceive” them as reliable. Such retries and redundancy make them inefficient as well. Thus, that for which the Examiner is taking “Official Notice” is not correct. The Internet and hypertext transfer protocol are not efficient and reliable.

The fact that Internet and hypertext transfer protocol are not efficient and reliable is one of the issues that embodiments of the present invention addresses. According to embodiments of the present invention, reliability and efficiency are increased by maintaining a hypertext transfer protocol open. Delivering all events in the event of connection failure according to embodiments of the present invention also increases reliability and efficiency. Using Internet and hypertext transfer protocol in the conventional manner would not result in a reliable and efficient system as the Examiner asserts because of the retries and redundancy. Applicants respectfully submit therefore that the combination of *Mishra* and *Langseth* in further view of “Official Notice” does not render claims 27 and 86 obvious and claims 27 and 86 are thus patentable over *Mishra* in view of *Langseth* in further view of “Official Notice.”

Claims 10-12, 16, and 25-26 properly depend from claim 1 and are thus patentable for at least the same reasons that claim 1 is patentable. Claims 32, 36-38, and 42, and 77-85 properly depend from claim 27 and are thus patentable for at least the same reasons that claim 27 is patentable. Claims 87-91 properly depend from claim 86 and are thus patentable for at least the same reasons that claim 86 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988))). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 10-12, 16, 25-27, 32, 36-38, 42, and 77-91.

#### Rejection of Claim 92 Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected claim 92 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,178,424 to Mishra [sic] in view of “Official Notice.” Applicants believe the Examiner intended the rejection to apply to U.S. Patent No. 6,178,424 to Okumura et al. (“*Okumura*”) and will address the rejection in that light. Applicants respectfully traverse the rejection.

Embodiments of the claimed invention are directed to automatically and transparently initiating a microserver on a client to notify the client of one or more events to which the client has subscribed. Applicants’ Specification at page 21, lines 3-8, provides an example embodiment. “In an embodiment, a user subscribes to a message by pointing a web browser to an event. For example, take ‘kirksoffice/printer?subscribe = pinteroutofpaper’ as a means to subscribe Kirk’s web browser to receive notifications that the printer in his office is out of paper. Kirk’s web browser waits for a printer to issue an ‘out of paper’ message. When the printer issues an ‘out of paper’ message, the message appears on Kirk’s web browser.” As Applicants’ Specification describes, pointing the web browser to an event opens a hypertext transport protocol communication path to the client and maintains it open. When an “out of paper” event occurs, embodiments of the present invention automatically and transparently transmit the event to the client via the still open connection.

Applicants also respectfully submit that in *Okumura* in view of “Official Notice” connections are made and broken constantly because conventional hypertext transport protocol connections exchange request response pairs and then are closed after the exchange of the pair.

Using the methods described in *Okumura* in view of “Official Notice” to retrieve updated information, one would have to “refresh” his connection, exchanging another request response pair to determine if an event occurred. This is because the web browser would have timed out. According to embodiments of the present invention, however, Kirk does not have to “refresh” his connection to determine if an “out of paper” event occurred. The web browser does not time out. The connection remains open unless there is a failure.

Moreover, if Kirk’s connection were to fail, all of the events that occurred during the time of failed connection are delivered to Kirk when the failed connection is restored. This is not true with conventional methods of *Okumura* in view of “Official Notice.” With the methods described in *Okumura* in view of “Official Notice,” any information that would have been transmitted during the time between web browser time out and hitting the “refresh” button is lost. If Kirk’s connection were to fail, according to embodiments of the present invention all of the “out of paper” events that occurred between connection failure and connection restoration are delivered to Kirk when the connection is restored. Applicants respectfully submit therefore that the combination of *Okumura* in view of “Official Notice” do not render claim 92 obvious and claim 92 is thus patentable over *Okumura* in view of “Official Notice.” Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claim 92.

Claim 93 properly depends from claim 92 and is thus patentable for at least the same reasons that claim 92 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

## CONCLUSION

Applicants respectfully submit that all grounds for rejection have been properly traversed, accommodated, or rendered moot, and that the application is now in condition for allowance. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,

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## CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS-Web on the date shown below.

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